

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

LEVI NESMITH,

Plaintiff,

v.

HOSPICE COMPASSUS,

Defendant.

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**Case No. 3:17-cv-01371
Judge Aleta A. Trauger**

ORDER

Before the court is *pro se* plaintiff Levi Nesmith's Objection to Award of Attorneys' Fees. (Doc. No. 34.) The plaintiff objects to the Report and Recommendation ("R&R") (Doc. No. 33) filed by Magistrate Judge Barbara Holmes, recommending that the defendant's Motion for an Award of Attorneys' Fees (Doc. No. 25) be denied or, alternatively, that the defendant be awarded fees of no more than \$1,000. The court presumes that the plaintiff objects only to the alternative recommendation of fees not to exceed \$1,000.

When a party files objections to a magistrate judge's report and recommendation regarding a dispositive motion, which includes a post-trial motion for attorney's fees, *see* Fed. R. Civ. P. 54(d)(2)(D), the district court must review *de novo* any portion of the report and recommendation to which objections are lodged. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B) & (C). In conducting its review, the district court "may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). If no objections are filed, the parties waive any claim of error. *See id.* (requiring review only of any part of the R&R "that has been properly objected to").

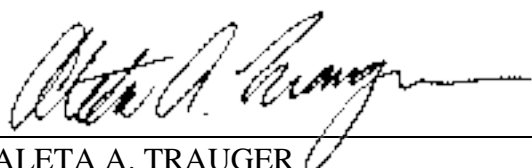
The defendant has not filed objections to the R&R and, consequently, has waived any claim

of error. The R&R's recommendation that the motion for fees be denied is therefore **ACCEPTED** and adopted in its entirety, and the fee motion (Doc. No. 25) is **DENIED**.

The denial of the defendant's request for attorney's fees moots the plaintiff's Objection to the magistrate judge's alternative recommendation that the court award fees of no more than \$1,000. Because attorney's fees have not been awarded, the Objection (Doc. No. 34) is **OVERRULED AS MOOT**.

It is so **ORDERED**.

ENTER this 5th day of March 2019.



ALETA A. TRAUGER
United States District Judge